IN THE

Supreme Court of the United States

OCTOBER TERM, 1948.

No. 142

CESARIO CAMPA, ALIAS CESAR CAMPA, PETITIONER,

versus

UNITED STATES OF AMERICA

On Petition for a Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit.

Memorandum for the Petitioner in Rebuttal to the Memorandum for the United States in Opposition

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The petitioner asked for the issuance of a writ of habeas corpus in an original manner, as by the allowance of the laws, based upon the bulwarks of liberty, and as guaranteed by the Common Law, the Laws of the United States, the Bill of Rights, and as found in the jurisdiction of Texas, and directed his petition to the Fifth Circuit, United States Circuit Court of Appeals, centrally located at New Orleans, La., as of said date which is indicated by the record, being on or about April 27th, 1948.

It is further indicated by the record that the said application was denied, and notice of appeal was given, and application was duly made to the United States Supreme Court for a writ of certiorari.

It is also further indicated that the United States District Court, Western District of Texas, San Antonio, Texas, the bench and place of the trial of prisoner, was not in session at the time of the said application for habeas corpus, the May Term, 1948, having been called, to wit, on May 3rd, 1948, whereas, it is not known if the Honorable Judge of said court might have been available, even if he had the power and jurisdiction, under the laws and cited cases, to hear and determine said application, or issue citation and service upon the said warden of U. S. Correctional Institution, Seagoville, Texas, where said petitioner was then held by the U. S. Attorney General and subordinates. It is pointed out that when said application was made for habeas corpus that the said petitioner was not in the jurisdiction of the United States District Court, Western District of Texas, the jurisdiction of the said trial court and the court below, but was then and there held by said warden at Seagoville, Texas, being in the Northern District of Texas, but within the territory and jurisdiction of the Fifth Circuit, United States Circuit Court of Appeals, to which said court the said petitioner applied for release on habeas corpus.

The said United States Circuit Court of Appeals, Fifth Circuit, New Orleans, La., denied the said application, failing and refusing to hear same, whereas the same, without any fault on the part of petitioner, explains why no service was had on warden at Seagoville, Texas.

The right of habeas corpus is an ancient right and is not to be ordinarily denied, and if procedure and time present problems in regard to jurisdiction which appear to retard or stifle the laws of habeas corpus in their remedy

and application, it is still in the power of the courts to devise ways and means for the remedy.

Since the Dred Scott Case and the case of Ex Parte Siebold, U. S. Reports, page 371, marked by great liberality in process and procedure, there have been certain rules and procedures made to regulate the process and application and jurisdictions of habeas corpus, but there are no definite regulations to conclusively guide the ways of the solicitor and counselor in the preparation and launching of the cases of habeas corpus. Cases can be cited and rules mentioned which show that in this case the Honorable Judge of the trial court did not have the power and authority to herein bring on and try this particular application for habeas corpus, even if he did try the original case, and even if he did lately refuse to modify the said judgment and orders of servitude, because the prisoner was at Seagoville, Texas, out of his jurisdiction, and in another jurisdiction of the District Court of Texas, but in the Fifth Circuit, United States Circuit Court of Appeals, and it appears that the Memorandum For The United States In Opposition fails to know or note the said matters. See United States Code Annotated, Title 28, Habeas Corpus, Federal Supplement 57, page 87, Sanders vs. Brady, Warden, and Federal Reporter, 2nd Series, 162, page 644, United States, ex rel., Quinn vs. Hunter, and contained cases and note that in this said case the United States District Judge, Western District of Texas, the court of trial, would have had no authority to hear and determine said application for habeas corpus, even if the said petitioner had been brought before his bench in any manner, being at the time of application a prisoner, serving sentence out of jurisdiction.

Where then was the proper place, the court and jurisdiction to file and present the application, if not to the next higher court, the Fifth Circuit, United States Circuit of

Appeals? The prisoner was in the Fifth Circuit, at Seagoville, Texas, which was far removed from the jurisdiction of the United States District Court, Western District of Texas, the jurisdiction of the trial below. See U. S. C. A., Title 28, page 13, paragraph 452, which says that the several justices of the Supreme Court and the several judges of the circuit courts of appeal and of the district courts, within their respective jurisdictions, shall have power to grant writs of habeas corpus for the purpose of an inquiry into the cause of restraint of liberty. The order of the circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

The petitioner cites that he had been imprisoned and several times ordered in the court below, and did not feel, even if the Honorable Judge might have been available and in term, that a remedy might be produced, especially so in view of the fact that he had only a few days before failed to receive a modification of sentence, and had been ordered to obey the prior judgment, to wit, to sign as an alien and agree not to again commit the offense by 2:00 P. M. of the said date, or go to prison, whereas, petitioner has raised several Constitutional Questions concerning same and his imprisonment, all of which involve the Bill of Rights, the basic laws of the land and also the constitutionality of Article 3004, Revised Statutes of Texas, concerning poll taxes, said Article 3004 being the basis and vehicle of his convictions, and the prisoner feels that the higher courts should regulate the matter herein and for said reasons. While the said order was not appealed, and the entire case re-opened on constitutional grounds, a hearing of habeas corpus would in effect serve as an appeal on said late order.

It appears that the U. S. District Court wherein said prisoner of Seagoville, Texas, is located, and where peti-

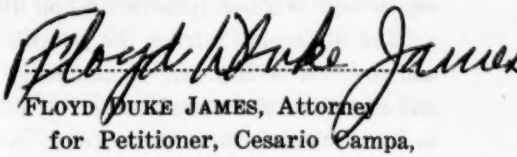
tioner was held at time of presentment of application, was not the proper jurisdiction to apply to for relief, as it is the apparent growing rule not to present such cases to a neighboring district, a court of equal grade, either to hear at such place or set down for hearing in the district of original jurisdiction, even if the petitioner is located in the jurisdiction of trial, whereas, said petitioner was not in said original jurisdicton and district at the time.

The Supreme Court is the guardian of the Constitution and the Bill of Rights. It can make rules and procedure and regulates the lower courts. It can require some court to hear and determine the present cause, and its appellate power herein cannot be denied. The denial of this case is on appeal. The court of trial exceeded powers, as indicated, contrary to Constitution, wherefore, Supreme Court can act herein, and grant writ of habeas corpus.

Note petitioner's application for habeas corpus, petition supporting same and application for writ of certiorari in which it is shown that petitioner questions the validity of Article 3004, Revised Statutes of Texas, concerning the requirements for a polltax before a citizen shall vote, also the complaints that he has been denied a fair and Constitutional trial by a jury as guaranteed by the Bill of Rights, involving, among other things, International Agreements and Treaties with Mexico, the Laws, the Constitution of the United States and the Bill of Rights, as well as unlawful evidence which has been used against him, and also note Revised Rules of the Supreme Court of the United States, page 5, section (b), which says that in any case in a Circuit Court of Appeals where is drawn in qustion the validity of a statute of any state, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is against its validity, may, at the election of the party relying on such State statute, be taken to the Supreme Court for review

on writ of error or appeal; but in that event a review on certiorari shall not be allowed at the instance of such party, and the review on such writ of error or appeal shall be restricted to an examination and decision of the Federal questions presented in the case.

Respectfully submitted,



FLOYD DUKE JAMES, Attorney
for Petitioner, Cesario Campa,
alias Cesar Campa.

August 1948

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MOTION

To The Honorable Justices of The Supreme Court:

Now comes the petitioner, Cesario Campa, alias Cesar Campa, now a movant, moving the Honorable Court to act herein in the alternative, in case his petition and application for writ of certiorari is refused, and to hear his cause and at his instance and request test the validity and Constitutionality of Article 3004, Revised Statutes of the State of Texas, concerning polltaxes, as set out in said petition for habeas corpus and supporting petition and

brief, as found in the record and duly filed with the Honorable Court, said petitioner having been twice convicted in the court below owing to the fact that he did buy said two polltaxes, and was forced to buy same in order to vote, having been thereby charged as falsely representing himself as an American citizen on said two counts, and the movant states that the said Article 3004, the basis and vehicle of the said prosecution, caused him to lose his freedom; that said Article is unconstitutional and allows the State of Texas to interfere with the free balloting and voting of the citizens, and make them liable to convictions, whereas, as set out in the records, the United States Constitution does not permit same; that said conflict should be herein remdied and said Article 3004 declared unconstitutional, as well as the other Constitutional matters therein.

Wherefore petitioner moves that said Article 3004, revised Statutes of Texas, be herein tested for validity and Constitutionality, as well as other Federal questions therein, in case the Honorable Court may herein refuse to grant writ of certiorari, and petitioner prays for relief, general or special, either at law or in equity, and for justice will ever pray.

Floyd Duke James

FLOYD DUKE JAMES, Attorney
for Cesario Campa, alias
Cesar Campa.

August 1948.